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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,052	11/17/2000	Jonah Peskin	1852-1-3	7616
996	7590	05/28/2004		
GRAYBEAL, JACKSON, HALEY LLP 155 - 108TH AVENUE NE SUITE 350 BELLEVUE, WA 98004-5901				
			EXAMINER DETWILER, BRIAN J	
			ART UNIT 2173	PAPER NUMBER 6

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/716,052

Applicant(s)

PESKIN ET AL.

Examiner

Brian J Detwiler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 57-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 57-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 57-71 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S.

Patent No. 6,313,851 (Matthews, III et al).

Referring to claim 57, Matthews discloses in column 9: lines 57-67 through column 10: lines 1-7, multiple modes of operation for a computing device. The first mode is a “PC mode”, which operates in a conventional fashion by accepting input from a local keyboard. The second mode is a “theater mode”, which operates via a remote control. Both the local keyboard and the remote control comprise keys on a keypad. In column 5: lines 62-67 and column 6: lines 31-35, Matthews discloses that the computing device comprises a processor and an operating system. Users can inherently select and launch a variety of applications via said operating system. In column 8: lines 7-15, Matthews explains that buttons on the remote control enable users to “launch applications, select menu items, and operate application programs without the need for a mouse or alphanumeric keyboard.” The remote control is thus capable of sending key event data to a first application program while in “theater mode”, and the local keyboard can send key event data to a second application while in “PC mode”.

Referring to claim 58, Matthews discloses the process for exchanging mode information between different layers of the processing system in column 12: lines 26-41. Matthews explains that the applications reside in the application layer, while the available operating modes reside in the mode layer. The mode selector receives key event data from both the local and remote keypads in order to select the current mode, and then mode control passes the selected mode to the applications. While Matthews does not specifically refer to the mode layer, mode selector, and mode control as a key event data server program, these modules clearly operate between the user and the applications. Furthermore, since these modules behave similarly to said key event data server program, they can thus be classified as such.

Referring to claim 59, Matthews discloses in column 4: lines 27-38 that the operating system that supports the ability to switch between the two user interface modes. Accordingly, the control program is an operating system program.

Referring to claim 60, Matthews discloses in column 3: lines 48-51 that an application suitable for the present invention is a CD player program.

Referring to claim 61, the second application program can be any of a variety of application programs operating on the computer. Matthews places no limitations on what types can receive key event data from the conventional local alphanumeric keyboard. Said second application can thus inherently be a word processing application capable of receiving text input.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 62-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,529,219 (Baik et al) and U.S. Patent No. 6,346,934 (Wugofski).

Referring to claims 62 and 67, Baik discloses two sets of keys in Figure 3. The first set is part of a normal keyboard. The second set, as explained in column 6: claim 1, is separate and distinct from the keys on the normal keyboard and the keys are referred to as smart buttons. Upon activation of said smart buttons, Baik explains in column 4: lines 16-47 that a smart button virtual driver receives the input and determines whether it is coming from the keyboard or the smart buttons. If from the smart buttons, the input is passed to a smart shell, which then sends a message to either a program selector or a corresponding application program. In one mode, the program selector allows users to select and launch registered applications via the smart buttons. Baik discloses in column 5: lines 55-62 that applications can be registered via a drag and drop function. In a second mode, the smart buttons can be used to send input directly to a particular application. For instance, Baik teaches in column 6: lines 12-42 that the smart buttons can be used to directly control an audio player application. Baik's invention thus allows a user to select a first application (e.g. an audio player) to receive key event data from the smart buttons while selecting a second application to receive key event data from the normal keyboard. Additionally, the key event data for both applications can be received concurrently. Baik's only deficiency is that there is no teaching for placing the smart buttons are on a remote keypad. As mentioned above, Baik claims that the smart buttons are to be "separate and distinct" from the keys on the normal keyboard. Wugofski supports a separate and distinct remote keypad by disclosing a

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remote control unit in Figure 1 capable of interacting with a computing device. Wugofski explains in column 4: lines 15-33 that commands or events can be sent to the computer to control desired applications. In column 1: lines 26-30, Wugofski suggests that remote controls are advantageous in domestic environments because they allow users to “participate in home entertainment as a family, instead of individually.” Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place Baik’s smart buttons on a remote keypad as suggested by Wugofski because it would allow home users to interact with applications on a computer as a family.

Referring to claims 63, 64, 68, and 69, Baik illustrates in Figure 4 that all key event data is received by the operating system and forwarded to the corresponding application programs. The operating system program thus corresponds to the claimed key event data server program.

Referring to claims 65 and 70, Baik discloses in column 6: lines 12-42 that the first application program can be an audio/video control program.

Referring to claims 66 and 71, the second application program can be any of a variety of application programs operating on the computer. Neither Baik nor Wugofski places any limitations on what types can receive key event data from the normal keyboard. Said second application can thus inherently be a word processing application capable of receiving text input.

### ***Response to Arguments***

Applicant's arguments with respect to claims 57-61 have been fully considered but they are not persuasive. Applicant asserts that Matthews fails to teach or suggest receiving input from local and remote keypads concurrently. While this may be true, claims 57-61 fail to include any

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limitations regarding the concurrent receipt of input from the local and remote keypads. The examiner thus maintains that Matthews fully anticipates claims 57-61.

Applicant's arguments with respect to claims 62-71 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider this reference fully when responding to this action. The document cited therein teaches an alternative method for controlling a computing device via a remote control.

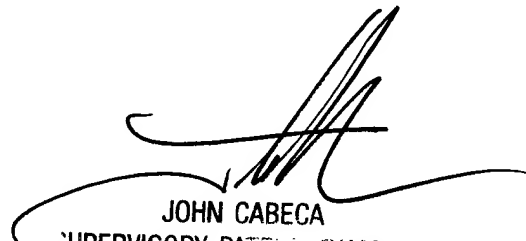
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J Detwiler whose telephone number is 703-305-3986. The examiner can normally be reached on Mon-Thu 8-5:30 and alternating Fridays 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W Cabeca can be reached on 703-308-3116. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bjd



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